S.B. CIVIL WRIT PETITION NO.3440/2007
(Moman Ram Vs. State of Rajasthan & ors.)

Date of Order :: 11.07.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.V.K.Sharma for the petitioner

The petitioner holding the post of Patwari has been put under suspension by the order dated 09.05.2003 (Annex.3) on being involved in a case under the Prevention of Corruption Act; and is facing trial in the Court of Special Judge, Anti-Corruption Cases, Bikaner. The petitioner served a notice on 15.02.2007 (Annex.6) on the respondent District Collector for revoking his suspension for the reason that trial was pending for four years and referred to a notification dated 25.03.1988. Thereafter, the petitioner approached the Rajasthan Civil Services Appellate Tribunal against the order dated 09.05.2003 but the Tribunal has rejected the appeal so filed by the petitioner being incompetent. Hence this petition.

In this petition for writ, learned counsel for the petitioner submitted that though under Rule 22 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 an appeal could have been preferred before the higher authority against the order of suspension but such authority is the Divisional Commissioner and, according to the learned counsel, Divisional Commissioner is not entertaining such appeal. The submission as made by the learned counsel, of

the Divisional Commissioner not entertaining the appeal, is not even suggested in the petition nor the said Divisional Commissioner has been impleaded a party to this writ petition.

During the course of submissions, learned counsel referred to an order dated 20.12.1999 passed by the District Collector, Rajsamand in relation to another Patwari Mr.Pyarchand Chandaliya revoking his suspension order in terms of the circular dated 25.03.1988. The said circular has neither been placed on record nor terms thereof have been shown.

Learned counsel referred to a part of Government Decision No.2 taken under Rule 54 of the Rajasthan Service Rules, 1951 as quoted at page 8 of the writ petition. Apart from the fact that it appears to be directory in nature, the said Government Decision envisages consideration of revocation of suspension where delay in departmental enquiry cases exceeds five years due to criminal proceedings pending against delinquent suspended employee. In the present case, admittedly, the period of five years has not elapsed.

The submissions made on behalf of the petitioner remain hollow and baseless; and this petition remains fundamentally bereft of substance. Hence, dismissed in limine.

(DINESH MAHESHWARI), J.

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